

**DEPARTMENT OF STATE REVENUE**

**REVENUE RULING #2000-06IT**

September 1, 2000

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUES**

I. Gross Income Tax – Application of Indiana Gross Income Tax to Investment Income

Authority: 45 IAC 1.1-6-2

The taxpayer requests the Department to rule on the application of gross income tax to its investment income.

II. Adjusted Gross Income Tax – Application of Indiana Adjusted Gross Income Tax to Indiana Insurance Companies

Authority: IC 6-3-8-2, IC 27-1-18-2, IC 6-3-2-2.8

The taxpayer requests the Department to rule on the application of adjusted gross income tax to Indiana insurance companies.

**STATEMENT OF FACTS**

The taxpayer is incorporated in the state of Indiana and is domesticated in Indiana with the Department of Insurance. The taxpayer conducts business in all states as well as in foreign countries. The taxpayer maintains its home office and headquarters in New Jersey.

The taxpayer maintains a branch office in Indiana that performs insurance underwriting, claims processing, customer service, and premium collection activities. Management decisions made by employees of the Indiana branch are limited to only those activities above and are performed solely for Indiana policyholders. The taxpayer maintains

branch office operations in other states that perform similar activities for policyholders in that particular state. The premiums collected by the branch operations are immediately transferred to the taxpayer's treasury operations located at the home office in New Jersey. These treasury funds then become immediately available for investment by the taxpayer's investment operations department that is also located in New Jersey. All of the investment policy and investment decisions are made from the New Jersey location. All gross receipts derived from the investment activity are received at the New Jersey location. The Indiana branch office personnel are evaluated for compensation on the basis of their underwriting ability and not on the basis of investment income earned since they have no connection to nor do they have any control over the investments.

The principal officers of the taxpayer do not reside in Indiana. Management and policy decisions affecting the taxpayers operations are made from the taxpayer's headquarters in New Jersey. One member of the taxpayer's board of directors is an Indiana resident; however, all other directors reside outside of Indiana. In addition, the board of director meetings are held at a location that is outside of Indiana. The Company books and records are maintained and located at the taxpayer's headquarters in New Jersey.

### **DISCUSSION – ISSUE #1**

Rule 45 IAC 1.1-6-2 provides in part;

- (c) Receipts derived from an intangible are not included in gross income under the following situations:
  - (2) The intangible does not form an integral part of a trade or business situated and regularly carried on at a business situs in Indiana, and the taxpayer's commercial domicile is located outside Indiana.

Investment income is an integral part of an insurance company's business, however, in the taxpayer's case, the income from the intangible investments does not form an integral part of a trade or business situated and regularly carried on at a business situs in Indiana. The activities associated with the taxpayer's business situs in Indiana involve underwriting, claims processing, customer service, and collection of premium from Indiana produced business. There is no investment activity conducted from the taxpayer's Indiana business situs, nor does any employee of the taxpayer's Indiana business situs have any control over the investment activity. The lone incidental activity in Indiana is the collection of premium from Indiana produced business and the subsequent transfer of those amounts to the taxpayer's treasury operations at the home office in New Jersey where at that point they become available for the investment operations department of the taxpayer. The taxpayer's investment operation department makes all material investment policy and investment decisions including those decisions surrounding the acquisition and disposals of investments. All receipts from investment activity are received at the home office location in New Jersey.

The taxpayer's commercial domicile is located outside of Indiana. Major activities and business functions of the entire company, i.e., executive management, administrative, legal and finance are performed at the taxpayer's home office and headquarters located in New Jersey. Executive management decisions affecting global business operations originate from the taxpayer's headquarters in New Jersey. The principal officers and executives maintain their residence and offices outside of Indiana. The taxpayer's books and records are maintained and located at the taxpayer's home office and headquarters located in New Jersey. In addition, the board of director's meetings are held at a location outside of Indiana.

Here then, it is clear that the taxpayer's intangible income does not form an integral part of a trade or business situated and regularly carried on a business situs in Indiana, and the taxpayer's commercial domicile is located outside Indiana, hence, the taxpayers income derived from investments is not subject to Indiana gross income tax.

### **RULING – ISSUE #1**

The Department rules that the taxpayer's income derived from investments is not subject to Indiana gross income tax.

### **DISCUSSION – ISSUE #2**

IC 6-3-8-2(a) states that domestic insurance companies organized under the laws of the State of Indiana are exempt from tax imposed on adjusted gross income pursuant to IC 6-3-2-1 (imposition statute) under the provisions of IC 27-1-18-2 or IC 6-3-2-2.8(4). IC 6-3-2-2.8(4) states that insurance companies subject to tax under IC 27-1-18-2 are not subject to Indiana adjusted gross income tax. IC 27-1-18-2 provides that a domestic insurance company is subject to Indiana gross premium privilege tax, however, the domestic insurance company may elect on an annual basis to not pay "premium tax", but rather, pay Indiana gross income tax. Indiana insurance companies, including the taxpayer, therefore, are not subject to Indiana adjusted gross income tax.

### **RULING – ISSUE #2**

The Department rules that Indiana insurance companies, including the taxpayer, are not subject to Indiana adjusted gross income tax.

### **CAVEAT**

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect

from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in a statute, a regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

Department of State Revenue